

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-2066

DAPHNE RODENBAUGH

Appellant

v.

FRANCES CARARCO

On Appeal From the United States District Court
For the Middle District of Pennsylvania
(M.D. Pa. Civ. No. 06-cv-02383)
District Judge: Honorable James M. Munley

Submitted For Possible Dismissal Under 28 U.S.C. § 1915(e)(2)(B)
or Possible Summary Action Under Third Circuit LAR 27.4 and I.O.P. 10.6
August 2, 2007

Before: BARRY, AMBRO and FISHER, CIRCUIT JUDGES.

(Filed: August 13, 2007)

OPINION

PER CURIAM

Daphne Rodenbaugh appeals pro se from the District Court's orders denying her leave to proceed in forma pauperis ("IFP") and dismissing her complaint for failure to pay

the filing fee. We have jurisdiction pursuant to 28 U.S.C. § 1291, see Redmond v. Gill, 352 F.3d 801, 803 (3d Cir. 2003), and review the District Court’s rulings for abuse of discretion, see United States v. Holiday, 436 F.2d 1079, 1079 (3d Cir. 1971). Because the District Court’s failure to explain the basis for its IFP denial prevents us from conducting that review, we will vacate and remand for further proceedings.

In this Circuit, IFP determinations are made solely on the basis of indigence, without regard to the potential merit of a complaint. See Deutsch v. United States, 67 F.3d 1080, 1084 n.5 (3d Cir. 1995); Roman v. Jeffes, 904 F.2d 192, 194 n.1 (3d Cir. 1990). We have, however, left open the possibility that “‘extreme circumstances’ might justify denying an otherwise [financially] qualified affiant leave to proceed [IFP],” although “we have not delineated the circumstances that might be sufficiently ‘extreme’ to justify denial[.]” Deutsch, 67 F.3d at 1084 n.1.

In this case, Rodenbaugh’s IFP affidavit states that her monthly income exceeds her monthly expenses only by approximately \$70. It further states that she has approximately \$1,800 in three bank accounts (although she later asserted in her motion for reconsideration that \$1,600 of that amount is “set aside” for car and car insurance payments). The District Court’s filing fee is \$350.

The District Court, with no explanation, entered an order denying IFP status and directing Rodenbaugh to pay the filing fee. When Rodenbaugh moved for reconsideration, the District Court denied that motion, again with no explanation why it had

denied IFP status. Finally, after Rodenbaugh failed to pay the filing fee by the specified date, the District Court entered its final order dismissing her complaint, once again providing no explanation why it had denied IFP status.

Unfortunately, the District Court's failure to provide any explanation of its rationale for denying IFP status prevents us from determining the basis on which it exercised its discretion. The District Court may, for example, have determined that Rodenbaugh is financially ineligible for IFP status. Alternatively, the District Court may have believed that some other factor constituted an "exceptional circumstance" warranting the denial of IFP status for non-financial reasons. We also cannot exclude the possibility that the District Court denied IFP status for some other reason, and express no opinion on the merits of these or any other issues. We note them merely to point out that the District Court's orders leave us with no way of knowing the basis for its decision.¹

Accordingly, we will vacate the District Court's judgment and remand for further proceedings consistent with this opinion.

¹We also note that Rodenbaugh, as a non-prisoner, is not subject to § 1915(g), and that § 1915(e)(2) sets forth grounds for dismissing a complaint after IFP status has been granted, not for denying IFP status in the first place.